

1 W. WEST ALLEN  
Nevada Bar No. 5566  
2 NIKKYA G. WILLIAMS  
Nevada Bar No. 11484  
3 LEWIS AND ROCA, LLP  
3993 Howard Hughes Parkway, Suite 600  
4 Las Vegas, Nevada 89109  
5 Telephone: (702) 949-8200  
6 Facsimile: (702) 949-8398

7 *Attorneys for Plaintiff SWITCH, LTD.*

8  
9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 SWITCH, LTD., a Nevada limited liability  
company,

12 Plaintiff,

13 v.

14 MAINSTREAM ADVERTISING, a California  
business entity,

15 Defendant.  
16

CASE NO. 2:13-cv-00781-MMD-PAL

**[PROPOSED] DEFAULT JUDGMENT,  
PERMANENT INJUNCTION AND  
ORDER**

17  
18 Plaintiff Switch, Ltd., having filed an application for entry of default judgment against  
19 Defendant Mainstream Advertising pursuant to Rule 55 of the Federal Rules of Civil Procedure,  
20 the Clerk of the Court having entered Default against Defendant on June 4, 2013, and, this Court  
21 having now given due consideration to Plaintiff's application for such judgment as well as all  
22 papers, pleadings, and exhibits offered in support thereof by Plaintiff, the Court being further fully  
23 advised in the matter, it is therefore,

24 ORDERED, ADJUDGED and DECREED that Judgment be entered in favor of Plaintiff  
25 and against Defendant on all counts of Plaintiff's Complaint; and, it is further ordered and  
26 adjudged that said Judgment shall include the following specific findings of fact and awarding of  
27 specific relief:  
28

1 Plaintiff is the owner of U.S. Registration No. 3,469,923, for the SUPERNAP mark, in the  
2 Supplemental Register and Application Serial No. 85/893,514, to register the SUPERNAP mark  
3 on the Principal Register;

4 Plaintiff has the exclusive right to use the SUPERNAP mark in connection with  
5 telecommunications and collocation services in the United States;

6 Defendant used the <supernap.com> domain name, which includes Plaintiff's SUPERNAP  
7 mark in its entirety, in an unfair effort to drive Plaintiff's growing Internet traffic to the  
8 <supernap.com> domain name in order to generate revenues for itself;

9 By using a domain name containing Switch's trademark, Defendants was and is attempting  
10 to trade on Switch's goodwill, is creating an association between its services and Plaintiff, and is  
11 attempting to frustrate or divert Internet traffic intended for Plaintiff;

12 Defendant's use of the SUPERNAP mark in the <supernap.com> domain name and on the  
13 associated website is likely to cause confusion as to the source and origin of Defendant's services;

14 Should Defendant's use of marks identical or confusingly similar to the SUPERNAP mark  
15 continue, Plaintiff will continue to suffer irreparable injury to the goodwill and reputation it has  
16 established in the SUPERNAP mark for which an award of damages would be inadequate; and

17 Defendant is liable for trademark infringement, unfair competition, and common law  
18 trademark infringement.

19 THEREFORE, IT IS HEREBY ORDERED that Defendant and its agents, servants,  
20 employees and/or all persons acting in concert or participation with Defendant are hereby  
21 permanently enjoined from:

22 1. Using the SUPERNAP mark or any confusingly similar variations thereof, alone or  
23 in combination with any other letters, words, letter strings, phrases or designs in commerce  
24 (including, but not limited to, on any website or within hidden text or metatags contained on or  
25 within any website, including the <supernap.com> website); and  
26  
27  
28

1           2.       Registering or trafficking in any domain name containing the SUPERNAP mark or  
2 any confusingly similar variations thereof, alone or in combination with any other letters, words,  
3 phrases or designs; and it is further

4           ORDERED that Defendant and its agents, servants, employees and/or all persons acting in  
5 concert or participation with Defendant are permanently enjoined from using the <supernap.com>  
6 domain name or any other variation of the SUPERNAP mark used in any letter string in any  
7 domain name; and it is further

8           ORDERED that the registration for <supernap.com> domain name be forfeited and  
9 permanently transferred by its current registrar to Plaintiff SWITCH, LTD.; and it is further

10          ORDERED that the current registrar and/or the “.com” registry shall effectuate the domain  
11 name transfer, permanently transferring the registration on the <supernap.com> domain name to  
12 Plaintiff SWITCH, LTD.; and it is further

13          ORDERED that Defendant pay Plaintiff’s reasonable attorneys’ fees and costs; and it is  
14 further

15          ORDERED that jurisdiction of this case shall be retained by this Court for the purpose of  
16 enforcing this Judgment.

17                   **IT IS SO ORDERED:**

18                   

19                   UNITED STATES DISTRICT JUDGE

20                   DATED:       August 6, 2013  
21                   \_\_\_\_\_